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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1962
No. 497

WILLIAM MALAT and ETHEL MALAT, BEN LESSER and LILY LESSER, LOUIS RUDMAN and SHIRLEY RUDMAN, LOUIS LOMAS and CLAIRE LOMAS,

*Petitioners,*

*vs.*

COMMISSIONER OF INTERNAL REVENUE,

## PETITIONERS' MEMORANDUM IN REPLY.

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## PETITIONERS' MEMORANDUM IN REPLY.

Respondent in his Memorandum in Opposition, at pp. 4-5, grossly misstates the facts. Petitioners did not in the Tax Court concede that the tax determined by the Commissioner was owed. Their motion, as respondent's own memorandum shows, at p. 3, was not for judgment against themselves; it was to adopt the alternative finding of the Commissioner, which would, as the Tax Court was fully aware (Pet. App. 28), have had the effect of determining still other dockets in their favor. That motion of theirs was not granted; it was denied. (Pet. App. 29). What respondent seeks is to have the judgment without the finding, thus to have the fruits of both a grant and a denial of the motion, at one and the same time.

GEORGE T. ALTMAN,
*Attorney for Petitioners.*